

Introduced by Senators Denham and Battin

February 20, 2004

An act to amend Sections 11011 and 11011.1 of the Government Code, relating to state property.

LEGISLATIVE COUNSEL'S DIGEST

SB 1753, as introduced, Denham. Surplus state property.

Existing law requires the Department of General Services, whenever any land is reported as excess, to determine whether or not the use of the land is needed by any other state agency. If the department determines that the of land is not needed by any other state agency and when authority is granted for the sale or other disposition of the land, the department may sell or otherwise dispose of the land pursuant to the authorization, upon the terms and conditions and subject to reservations and exceptions as the department may deem to be for the best interests of the state.

This bill would require the department to determine whether or not the use of the land is needed by any other state agency within 60 days of that land being reported as excess. The bill would require the department, if it determines that the land is needed by another state agency, to transfer the jurisdiction of the land to the other state agency within 6 months after that determination and upon the terms and conditions as it may deem to be for the best interests of the state, and to sell or otherwise dispose of that land if the transfer to the other state agency has not occurred within that 6-month period.

Existing law requires that land that has been declared surplus by the Legislature and that is not needed by any state agency is to be offered to local governmental agencies. Existing law authorizes the department

to transfer surplus state land at no cost or a cost below fair market value to local governmental agencies if specified conditions apply.

This bill would require that land that has been declared surplus by the Legislature, and is not needed by any state agency, be offered to local governmental agencies at the same time the land is offered to all other interested parties and at fair market value.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11011 of the Government Code is
2 amended to read:

3 11011. (a) On or before December 31st of each year, each
4 state agency shall make a review of all proprietary state lands
5 (other than tax-deeded land, land held for highway purposes, lands
6 under the jurisdiction of the State Lands Commission, land which
7 has escheated to the state or which has been distributed to the state
8 by court decree in estates of deceased persons, and lands under the
9 jurisdiction of the State Coastal Conservancy) over which it has
10 jurisdiction to determine what, if any, land is in excess of its
11 foreseeable needs and report thereon in writing to the Department
12 of General Services. These lands shall include, but not be limited
13 to, the following:

14 (1) Land not currently being utilized, or currently being
15 underutilized, by the state agency for any existing or ongoing state
16 program.

17 (2) Land for which the state agency has not identified any
18 specific utilization relative to future programmatic needs.

19 (3) Land not identified by the state agency within its master
20 plans for facility development.

21 (b) Jurisdiction of all land reported as excess shall be
22 transferred to the Department of General Services, when requested
23 by the director thereof, for sale or disposition under this section or
24 as may be otherwise authorized by law.

25 (c) The Department of General Services shall report to the
26 Legislature annually, the land declared excess and request
27 authorization to dispose of the land by sale or otherwise.

28 (d) The Department of General Services shall review and
29 consider reports submitted to the Director of General Services



pursuant to Section 66907.12 of the Government Code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies which are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state which involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other provision of law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency *within 60 days of that land being reported as excess*. If the Department of General Services determines that any land is needed by any other state agency it ~~may~~ *shall within six months after that determination* transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, *or if the lands declared in excess have not been transferred to any other state agency within the six-month time period prescribed in subdivision (e)*, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, moneys received from any property disposition, including the sale, lease, exchange,

1 or other means, that is received pursuant to this section shall be
2 paid into the General Fund.

3 For purposes of this section, net proceeds shall be defined as
4 gross proceeds less all costs directly related to the completion of
5 the transaction including, but not limited to, selling costs, transfer
6 fees, commissions, and costs incurred by the Department of
7 General Services.

8 (h) Any rentals or other revenues received by the department
9 from real properties, the jurisdiction of which has been transferred
10 to the Department of General Services under this section, shall be
11 deposited in the General Fund in the account established by
12 Section 15863. Any expenditures required to maintain, repair, care
13 for, and sell this real property shall be paid from the appropriation
14 made by Section 15863.

15 (i) Nothing contained in this section shall be construed to
16 prohibit the sale, letting, or other disposition of any state lands
17 pursuant to any law now or hereafter enacted authorizing the sale,
18 letting, or disposition.

19 SEC. 2. Section 11011.1 of the Government Code is amended
20 to read:

21 11011.1. ~~(a) Land that has been declared surplus by the~~
22 ~~Legislature, pursuant to Section 11011, and is not needed by any~~
23 ~~state agency shall be offered to local governmental agencies at the~~
24 ~~same time the land is offered to all other interested parties. Except~~
25 ~~as authorized in subdivisions (b), (c), (d), (e), and (k), or any~~
26 ~~combination thereof, transfers~~ *Transfers* of surplus land to local
27 governmental agencies pursuant to this section shall be at fair
28 market value. No surplus land shall be sold for less than fair market
29 value, ~~however,~~ to any person or agency, whether public or private;
30 ~~unless the contract for sale provides for the reversion of the land~~
31 ~~to the state if the stated purpose for which the property is sold is~~
32 ~~not achieved.~~

33 ~~(b) Where the land is to be used for park and recreation~~
34 ~~purposes and operated for those purposes by local agencies at no~~
35 ~~expense to the state, the Director of General Services with the~~
36 ~~approval of the State Public Works Board may, notwithstanding~~
37 ~~any provision in Section 11011, transfer the land to local~~
38 ~~governmental agencies at less than the fair market value of the~~
39 ~~land, if the transfer is in the public interest, under the following~~
40 ~~conditions:~~

1 ~~(1) The local public agency has submitted a general~~
2 ~~development plan for the property which conforms to the agency's~~
3 ~~general plan pursuant to Article 5 (commencing with Section~~
4 ~~65300) of Chapter 3 of Title 7, and which general development~~
5 ~~plan has been approved by the Director of Parks and Recreation.~~

6 ~~(2) The land shall be developed according to plan within a time~~
7 ~~period determined by the state but not to exceed 10 years. The deed~~
8 ~~or other instrument of transfer shall provide that the land shall~~
9 ~~revert to the state if the land is not developed within the time period~~
10 ~~so determined by the state.~~

11 ~~(3) The deed or other instrument of transfer shall provide that~~
12 ~~the land would revert to the state if the use changed to a use not~~
13 ~~consistent with parks and recreation purposes during the period of~~
14 ~~25 years following the sale.~~

15 ~~(c) Where the land is to be used for open-space purposes, as~~
16 ~~defined herein, and operated by local agencies at no expense to the~~
17 ~~state, the Director of General Services with the approval of the~~
18 ~~State Public Works Board may transfer the land to local~~
19 ~~governmental agencies at fair market value of the land or at any~~
20 ~~lesser value of the land under any of the following conditions:~~

21 ~~(1) The local public agency has submitted a plan for the use of~~
22 ~~the property which conforms to the agency's general plan pursuant~~
23 ~~to Article 5 (commencing with Section 65300) of Chapter 3 of~~
24 ~~Title 7, and which plan has been approved by the Director of Parks~~
25 ~~and Recreation.~~

26 ~~(2) The land shall be used according to plan within a time~~
27 ~~period determined by the state but not to exceed 10 years.~~

28 ~~(3) The deed or other instrument of transfer shall provide that~~
29 ~~the land would revert to the state if the use changed to a use not~~
30 ~~consistent with open-space purposes during the period of 25 years~~
31 ~~following the sale.~~

32 ~~(4) For the purpose of this subdivision, "open-space purpose"~~
33 ~~means the use of land for public recreation, enjoyment of scenic~~
34 ~~beauty, or conservation or use of natural resources.~~

35 ~~(d) Where the land is suitable to be used for the purpose of~~
36 ~~providing housing for persons and families of low or moderate~~
37 ~~income, as defined in Section 50093 of the Health and Safety~~
38 ~~Code, the Director of General Services, with the approval of the~~
39 ~~State Public Works Board, may offer the land to local agencies~~
40 ~~within whose jurisdiction the land is located. Provided, however,~~

1 if the state has held title to the land for seven years or less and the
2 land is not used for the purposes for which it was acquired, and the
3 land is declared surplus land and is not needed by any other state
4 agency pursuant to the provisions of Section 11011, the state, prior
5 to offering the land to local agencies, shall extend to the individual
6 from whom the land was acquired an offer to purchase the land at
7 current fair market value. The offer shall extend for 60 days and
8 if not exercised within such period shall be irrevocably terminated.
9 The land may be transferred to local agencies at a reasonable cost
10 which will enable the provision of housing for persons and
11 families of low or moderate income. The cost may be less than fair
12 market value. The Department of Housing and Community
13 Development shall recommend to the Department of General
14 Services a cost which will enable the provision of housing for
15 persons and families of low or moderate income. All transfers of
16 land pursuant to this subdivision shall be subject to the following
17 conditions:

18 (1) The local agency has made all of the following findings:

19 (A) There is a need for the housing in the community.

20 (B) The land is suitable for development of the housing.

21 (2) The local agency develops a plan for the housing in
22 accordance with criteria established by the Department of Housing
23 and Community Development, which shall include, but not be
24 limited to, criteria respecting the financial condition of the
25 developer, if the housing is to be developed by a private sponsor,
26 and the cost of the project. The plan shall be approved by the
27 Department of Housing and Community Development.

28 (3) After transfer of the property from the state to the local
29 agency, the property shall be developed as housing for persons and
30 families of low or moderate income. The local agency may lease
31 or sell the property to any nonprofit corporation, housing
32 corporation, limited dividend housing corporation, or private
33 developer if the local agency determines a private entity is best
34 suited to develop housing for persons and families of low or
35 moderate income. In authorizing the private development, the
36 local agency shall impose reasonable terms and conditions as will
37 further the purposes of this subdivision, which shall include, but
38 not be limited to, continued use of the property for housing for
39 persons and families of low or moderate income for not less than
40 40 nor more than 55 years. A lessee or purchaser of land pursuant

1 ~~to this subdivision shall agree to limitations on profit in the~~
2 ~~operation of the property which will benefit the public and assure~~
3 ~~that the housing provided thereon is within the means of persons~~
4 ~~and families of low or moderate income. The agreement shall be~~
5 ~~binding upon successors in interest of the original lessee or~~
6 ~~purchaser and shall inure to the benefit of, and be enforceable by,~~
7 ~~the state.~~

8 (4) ~~The local agency shall assure that the land will be used for~~
9 ~~the purpose of providing low or moderate income housing and~~
10 ~~shall not permit the use of the dwelling accommodations of the~~
11 ~~project for any other purpose for not less than 40 nor more than 55~~
12 ~~years, except as provided in this section.~~

13 ~~In the event a local agency does not comply with the land use~~
14 ~~requirements prescribed in this section, as determined by the~~
15 ~~Department of General Services, the Department of General~~
16 ~~Services may require that the local agency pay the state the~~
17 ~~difference between the actual price paid by the local agency for the~~
18 ~~property and the fair market value of the property, at the time of~~
19 ~~the department's determination of noncompliance, plus 6 percent~~
20 ~~interest on that amount for the period of time the land has been held~~
21 ~~by the local agency.~~

22 ~~If the local agency, with the approval of the Department of~~
23 ~~General Services, and in consultation with the Department of~~
24 ~~Housing and Community Development, determines that there is~~
25 ~~no longer a need for low or moderate income housing within the~~
26 ~~jurisdiction of the local agency and another valid public purpose~~
27 ~~could be achieved by utilizing the land in an alternative manner,~~
28 ~~the local agency shall not be required to make any payment to the~~
29 ~~state for the difference between purchase price and fair market~~
30 ~~value or interest charges for the period of time the land has been~~
31 ~~held by the local agency.~~

32 (5) ~~Failure to comply with the provisions of this section shall~~
33 ~~not invalidate the transfer, sale, or conveyance of the real property~~
34 ~~to a bona fide purchaser or encumbrancer for value.~~

35 (6) ~~The project shall be commenced within 24 months of the~~
36 ~~original transfer to the local agency. However, the Department of~~
37 ~~General Services, in consultation with the Department of Housing~~
38 ~~and Community Development, may for justifiable cause extend~~
39 ~~the time for commencement of development for an additional 36~~
40 ~~months. The aggregate time for commencing development shall~~

1 not exceed 60 months. The deed or other instrument of conveyance
2 shall specify that, if development has not commenced within that
3 time, the land shall revert to the Department of General Services
4 for disposal pursuant to this section or as otherwise authorized by
5 law.

6 ~~(7) As used in this subdivision, “local agency” means and~~
7 ~~includes any county, city, city and county, redevelopment agency~~
8 ~~organized pursuant to Part 1 (commencing with Section 33000) of~~
9 ~~Division 24 of the Health and Safety Code, or housing authority~~
10 ~~organized pursuant to Part 2 (commencing with Section 34200) of~~
11 ~~Division 24 of the Health and Safety Code, public district or other~~
12 ~~political subdivision of the state and any instrumentality thereof,~~
13 ~~which is authorized to engage in or assist in the development or~~
14 ~~operation of housing for persons and families of low or moderate~~
15 ~~income and also includes two or more of those agencies acting~~
16 ~~jointly pursuant to Part 1 (commencing with Section 6500) of~~
17 ~~Division 7 of this code.~~

18 ~~(8) Up to 40 percent of the housing developed on land~~
19 ~~purchased at below market value pursuant to this subdivision may~~
20 ~~be housing which is not regulated as to price, rent, or eligibility of~~
21 ~~occupants only if the purchaser of the land demonstrates that the~~
22 ~~proceeds from the sale or rental of such housing, in an amount~~
23 ~~equal to the difference between the fair market value and the actual~~
24 ~~price paid for the land, is used to reduce prices or rents on other~~
25 ~~housing units which are made available exclusively to persons and~~
26 ~~families of low and moderate income.~~

27 ~~(e) Where the land is suitable to be used for the purpose of~~
28 ~~providing housing for persons and families of low or moderate~~
29 ~~income, as defined in Section 50093 of the Health and Safety~~
30 ~~Code, and provided no local agency has acquired or is in the~~
31 ~~process of acquiring the land pursuant to subdivision (d), the~~
32 ~~Director of General Services, with the approval of the State Public~~
33 ~~Works Board, may lease or sell the land to a housing sponsor. The~~
34 ~~land may be sold or leased at a reasonable cost which may be less~~
35 ~~than fair market value. The Department of Housing and~~
36 ~~Community Development shall recommend to the Director of~~
37 ~~General Services a cost which will enable the provision of housing~~
38 ~~for persons and families of low or moderate income. All transfers~~
39 ~~of land pursuant to this subdivision shall be subject to all of the~~
40 ~~following conditions:~~

1 ~~(1) The housing sponsor has submitted a plan for the~~
2 ~~development of such housing pursuant to criteria established by~~
3 ~~the Department of Housing and Community Development. The~~
4 ~~criteria shall include, but need not be limited to, standards with~~
5 ~~respect to the cost of the housing development and the proportion~~
6 ~~of the housing development to be occupied by persons and families~~
7 ~~of low and moderate income. Insofar as is practical, the plan shall~~
8 ~~provide for a mix of housing for all income groups.~~

9 ~~(2) The housing development shall normally be developed or~~
10 ~~be under development within 24 months from the time of transfer~~
11 ~~or lease of the land to the housing sponsor. However, the~~
12 ~~Department of General Services, in consultation with the~~
13 ~~Department of Housing and Community Development, may, upon~~
14 ~~finding justifiable cause, extend the time for commencement of~~
15 ~~development for an additional period of 36 months. The aggregate~~
16 ~~of all extensions for commencement of development shall not~~
17 ~~exceed 60 months. The deed or other instrument of conveyance~~
18 ~~shall specify that if development has not commenced within such~~
19 ~~time, the land shall revert to the Department of General Services~~
20 ~~for disposal pursuant to this section or as otherwise authorized by~~
21 ~~law.~~

22 ~~(3) Transfer of title to the land or lease of the land to a housing~~
23 ~~sponsor shall be conditioned upon continued use of the property~~
24 ~~as housing for persons and families of low and moderate income~~
25 ~~for not less than 40 nor more than 55 years. In accordance with~~
26 ~~regulations which shall be adopted by the Department of Housing~~
27 ~~and Community Development pursuant to the Administrative~~
28 ~~Procedure Act, the Director of General Services shall require that~~
29 ~~any housing sponsor purchasing or leasing land pursuant to this~~
30 ~~subdivision enter into an agreement which (A) provides for~~
31 ~~limitations on profit in the operation of such property which~~
32 ~~benefit the public and which assure that the housing is affordable~~
33 ~~to persons and families of low and moderate income, and (B) does~~
34 ~~not permit the use of the property for purposes other than the~~
35 ~~provision of housing for persons and families of low and moderate~~
36 ~~income except as provided in this subdivision. Upon recordation~~
37 ~~of the agreement in the office of county recorder in the county in~~
38 ~~which the real property subject to the agreement is located, the~~
39 ~~agreement shall be binding for a period of not less than 40 nor more~~
40 ~~than 55 years upon successors in interest to the original housing~~

1 sponsor and shall inure to the benefit of, and be enforceable by, the
2 state.

3 For the purposes of this subdivision, “housing sponsor” means
4 a nonprofit corporation incorporated pursuant to Part 1
5 (commencing with Section 9000) of Division 2 of Title 1 of the
6 Corporations Code; a cooperative housing corporation which is a
7 stock cooperative, as defined by Section 11003.2 of the Business
8 and Professions Code; a limited-dividend housing corporation; or
9 a private housing developer who agrees to the conditions set forth
10 in this subdivision.

11 (4) Up to 40 percent of the housing developed on land
12 purchased at below market value pursuant to this subdivision may
13 be housing which is not regulated as to price, rent, or eligibility of
14 occupants only if the purchaser of the land demonstrates that the
15 proceeds from the sale or rental of such housing, in an amount
16 equal to the difference between the fair market value and the actual
17 price paid for the land, is used to reduce prices or rents on other
18 housing units which are made available exclusively to persons and
19 families of low and moderate income.

20 (f) The Department of Housing and Community Development,
21 in consultation with the Department of General Services and the
22 Office of Planning and Research, shall make a report to the
23 Legislature on or before January 1, 1981, with respect to
24 effectiveness of the program and shall recommend any necessary
25 legislative changes to the provisions of subdivision (d).

26 (g) Where the land is to be used for public purposes other than
27 specifically set forth in this section, is to be operated by the local
28 agency at no expense to the state, and the use and enjoyment of the
29 public purpose contemplated will be of broad public benefit, and
30 not a benefit basically of local interest enjoyed and used primarily
31 by the residents of the area of tax jurisdiction of the local agency,
32 the Director of General Services, with the approval of the State
33 Public Works Board, may transfer the land to local governmental
34 agencies at a sales price not less than 50 percent of fair market
35 value. The transfer shall provide that if the land is not used for the
36 contemplated purpose during the period of 25 years following the
37 sale, the land shall revert to the state. The Director of General
38 Services may provide additional terms and conditions which he or
39 she determines to be in the best interest of the state.

~~(h) If there is more than one appropriate use and more than one offer for the use of a parcel of surplus land, the Department of General Services, in consultation with the Department of Housing and Community Development, the Department of Parks and Recreation, and the Office of Planning and Research, shall determine the most appropriate use for the parcel and the Department of General Services shall offer the land accordingly.~~

~~(i) Land that has been declared surplus by the Legislature, pursuant to Section 11011, is not needed by any state agency, is suitable for development for housing purposes, and is not in the process of being acquired pursuant to other provisions of this section, may upon the request of the Department of Housing and Community Development be retained by the Director of General Services for a period not exceeding five years, during which the Director of General Services shall continue to offer the lands for housing pursuant to subdivision (d).~~

~~(j) Transfer of state surplus lands under subdivision (d) shall be at a cost which will enable provision of economically feasible housing for persons and families of low or moderate income.~~

~~(k) Where the land is to be used for school purposes, the Director of General Services with the approval of the State Public Works Board and the State Allocation Board may, notwithstanding any provision in Section 11011, transfer the land to a local school district at less than fair market value of the land, if the transfer is in the public interest, under the following conditions:~~

~~(1) The land is suitable for use by a school district as a school site, school administration building site, school warehouse site, or other school use approved by the State Department of Education.~~

~~(2) The land is used by the school district for such purposes before a nonuse fee is required by Section 39015 of the Education Code or such later time as is approved by the State Department of Education, with a reversion to the state if not so used within the time prescribed.~~

~~(3) The deed or other instrument of transfer shall provide that the land shall revert to the state if the use is changed to a use not consistent with school purposes during the period of 25 years following the sale.~~